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Docket # PF-0169-2 CON

"Express Mail" mailing label number EL 856 152 026 US. I hereby certify that this document and referenced attachments are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR § 1.10, addressed to: Commissioner for Patents, Box Patent Application, Washington, D.C. 20231 on August 24, 2001

By:

Nancy Ramos

Printed:

Nancy Ramos

J1017 U.S. PTO  
09/938885  
08/24/01

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)**

Commissioner for Patents  
Box Patent Application  
Washington, D.C. 20231

Dear Sir:

This is a request for filing a **CONTINUATION** application under 37 CFR 1.53(b) of pending prior application Serial No. 09/207,980, filed on December 7, 1998, which is a divisional application of U.S. application serial number 08/760,745, filed December 5, 1996, now U.S. Patent No. 5,972,658, issued October 26, 1999, both entitled **LUNG GROWTH FACTOR VARIANT**.

1. X Enclosed is a specification corresponding to the prior application, U. S. Application Serial No. 08/760,745 filed December 5, 1996, including the oath or declaration as originally signed. The specification does not contain any subject matter that would have been new matter in the prior application.
2. X With regard to the requirement of 37 CFR 1.821(e) which requires that a copy of the Sequence Listing in computer readable form (CRF) be submitted, Applicants state that the paper copy of the Sequence Listing for the instant continuation application is identical with the computer readable form filed with Serial No. 08/760,745, filed December 5, 1996, to which priority is claimed. In accordance with 37 C.F.R. §1.821(e), please use the computer readable form filed with U.S. Application Serial No. 08/760,745 as the computer readable form for the instant continuation application. It is understood that the Patent and Trademark Office will make the necessary change in application number and filing date for the computer readable form that will be used for the instant continuation application.
3. X Cancel in this application original claims ~~6, 16, 18, 19, 21, 22, 23, 24, 27-42, 44, and 46-51~~ before calculating the filing fee, without prejudice or disclaimer. Applicants submit that these claims were included in the application as filed in the interest of providing notice to the public of certain specific subject matter intended to be claimed, and are being canceled at this time in the interest of reducing filing costs. Applicants expressly state that these claims are not being canceled for reasons related to patentability, and are in fact fully supported by the specification as filed. Applicants expressly reserve the right to reinstate these claims or to add other claims during

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prosecution of this application or a continuation or divisional application. Applicants expressly do not disclaim the subject matter of any invention disclosed herein which is not set forth in the instantly filed claims.

4. X The inventor(s) of the invention being claimed in this application is (are): Olga Bandman, Surya K. Goli, Lynn E. Murry.
5. X In accordance with 37 CFR 1.63(d) a copy of the originally signed declaration showing applicant's/applicants' signature(s) as filed on March 19, 1997 is enclosed.
6. X The filing fee is calculated below:

Claims	Number Filed	Minus	Number Extra	Other Than Small Entity		Basic Fee
				Rate	Fee	\$710.00
Total Claims	20	-20	0	x \$18	0	\$ 0
Indep. Claims	3	-3	3	x \$80	0	\$0
Multiple Dependent Claim(s), if any				+ \$270		\$ 0

**TOTAL FILING FEE** \$ 710.00

7. X An extension of time in the above-named prior application has been requested and the fees therefore have been authorized in said application.
8. X Please charge Deposit Account No. 09-0108 in the amount of \$ 710.00

The Commissioner is hereby authorized to charge any additional fees which may be required or credit any overpayment to Deposit Account No. 09-0108.

A **duplicate** copy of this Request is enclosed.

9. X New formal drawings are enclosed.
10. X The prior application is assigned of record to Incyte Pharmaceuticals, Inc., recorded on 03/24/97, at reel 8477/frame 0573.
11.     A preliminary amendment is enclosed.
12. X Also enclosed Information Disclosure Statement; List of References Cited by Applicants; Submission of Formal Drawings.
13. X The power of attorney of the prior application is to:

Lucy J. Billings	Reg. No. 36,749
Michael C. Cerrone	Reg. No. 39,132
Diana Hamlet-Cox	Reg. No. 33,302
Richard C. Ekstrom	Reg. No. 37,027
Barrie D. Greene	Reg. No. 46,740
Matthew R. Kaser	Reg. No. 44,817
Lynn E. Murry	Reg. No. 42,918
Shirley A. Recipon	Reg. No. 47,016
Susan K. Sather	Reg. No. 44,316
Michelle M. Stempien	Reg. No. 41,327
David G. Streeter	Reg. No. 43,168
Stephen Todd	Reg. No. 47,139
Christopher Turner	Reg. No. 45,167
Peng Ben Wang	Reg. No. 41,420

\_\_\_ The associate power of attorney in the prior application is to:

- a. \_\_\_ An associate power of attorney is attached.
- b. \_\_\_ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. X Address all future correspondence to:

**INCYTE GENOMICS, INC.  
PATENT DEPARTMENT  
3160 Porter Drive**

**Palo Alto, California 94304**

**Phone: (650) 855-0555, Fax: (650) 845-4166**

Date: August 27, 2001

By: Susan K. Sather  
Susan K. Sather  
Reg. No. 44,316  
Direct Dial Telephone: (650) 845-4646

- \_\_\_ Inventor(s)
- \_\_\_ Assignee of complete interest
- X Attorney or agent of record
- \_\_\_ Filed under 37 CFR 1.34(a)
- \_\_\_ Registration number if acting under 37 CFR 1.34(a) \_\_\_\_\_

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By: Nancy Ramos Printed: Nancy Ramos

# IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bandman et al.

Title: LUNG GROWTH FACTOR VARIANT

Serial No.:	To Be Assigned	Filing Date:	Herewith
Examiner:	To Be Assigned	Group Art Unit:	To Be Assigned

## Official Draftsman

Commissioner for Patents  
Washington, D.C. 20231

## SUBMISSION OF FORMAL DRAWINGS

Sir:

Transmitted herewith are Figure(s) 1A, 1B, 1C, 2, 3A, 3B, 3C, 4A, 4B, 5A, 5B, 5C, 5D, 5E, as (14) sheets of formal drawings for this application. Each sheet of drawing indicates the identifying indicia suggested in 37 CFR Section 1.84(c) on the reverse side of the drawings.

Applicants believe that no fee is due with this paper. However, if the Commissioner determines that a fee is necessary, the Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. **09-0108**. **A duplicate copy of this communication is enclosed.**

If there are any questions regarding the above, the Examiner is invited to call the undersigned at 650-855-0555.

Respectfully submitted,  
INCYTE GENOMICS, INC.

Date: August 24, 2001

Susan K. Sather  
Susan K. Sather  
Reg. No. 44,316  
Direct Dial Telephone: (650) 845-4646

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Palo Alto, California 94304  
Phone: (650) 855-0555  
Fax: (650) 845-4166